IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.5413 of 2004

DATE OF ORDER: 23.1.2007

Punjab State Co-operative Milk Producer's Federation Ltd (Milkfed) and another

...Petitioner(s)

Versus

M/s Chandigarh Erectors Private Limited

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. D.S. Patwalia, Advocate.

Mr. K.S. Boparai, Advocate.

M.M. AGGARWAL,J

This is petition against order dated 8.10.2004 passed by Civil Judge(Jr.Divn.), Chandigarh.

The facts of the case are that an award was passed by the Arbitrator on 27.9.1991 for a sum of Rs.12,89,233.63 Paise, which were payable by Milkfed i.e present petitioner to the M/s Chandigarh Erectors Pvt Ltd i.e respondent No.1. It was directed that if the payment was not made within 60 days, then 15 % interest shall be payable. Then the objections to the award had been filed. However, these were dismissed and

award was made rule of the Court vide order dated 14.10.1993 by Sub Judge, Ist Class, Chandigarh. Then present petitioners had filed appeal, which was disposed of by Additional District Judge, Chandigarh on 12.9.2000. The appeal was dismissed. However, Additional District Judge, Chandigarh while relying on judgment of Hon'ble Supreme Court reported in Jagdish Rai & Brothers Virinder Singh, Union of India 1999(3) Succeeded 257 had observed that it would be appropriate to modify the decree of the lower court by allowing interest @ 12 % per annum from the date when the award was made rule of the Court by the lower court till the amount was paid. It was held that interest @ 15 % per annum was not proper.

Respondent No.1 filed execution claiming 15 % interest from the date of the award till the order of the Sub Judge, Ist Class, Chandigarh making award rule of the court and then claiming 12 % interest after that date. This request was objected by present petitioner but was allowed vide impugned order.

On behalf of the petitioners, it is argued that no interest is payable till the award was made rule of the Court. That judgment dated 12.9.2000 passed by the Additional District Judge, Chandigarh merged with the original judgment of the trial Court and no interest can be paid before the period the award was made rule of the Court.

I find that the order dated 12.9.2000 passed by Additional District Judge, Chandigarh is creating confusion since he did not write anything as far as awarding of interest from the date of award to the date when it was made rule of the Court, is concerned.

The court of Additional District Judge, Chandigarh had reduced

the interest from 15 % to 12 %. It has come out that this judgment was even challenged by the present petitioner but civil revision was dismissed.

There had been specific directions of the Arbitrator to award interest @ 15 % that if the payment was not made within a period of 60 days from the date of award i.e 27.9.1991 then interest was payable and that was allowed by the Sub Judge, Ist Class, Chandigarh vide judgment dated 14.10.1993. There would have been no reason for not allowing interest from the date of award by the Arbitrator. There is no specific line in the order dated 12.9.2000 passed by Additional District Judge, Chandigarh that interest was not payable from the date of the award till it was made rule of the Court. Therefore, for that period, 15 % interest was payable.

Under these circumstances, there is no infirmity in order dated 8.10.2004 of the trial Court.

No merit. Dismissed.

January 23, 2007 (M.M. AGGARWAL)
manoj JUDGE